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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,833	06/27/2003	Jane Frejlev	NOKM.068PA	8454

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EXAMINER

GORT, ELAINE L

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/607,833

Applicant(s)

FREJLEV ET AL.

Examiner

Elaine Gort

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 April 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9, 12-14, 18 and 22-25 is/are pending in the application.
- 4a) Of the above claim(s) 1-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-14, 18 and 22-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

**DETAILED ACTION**

***Election/Restrictions***

1. Claims 1-9 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 8/8/04. The Applicant has argued that the invention must be entirely practiced by hand to be restrictable. Examiner contends that the MPEP does not state that the entire process be practiced by hand, but merely that it can be carried out by hand. See prior office actions for reasons why the restriction is proper.

This application contains claims 1-9 drawn to an invention nonelected with traverse in Paper No. 8/8/04. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 12-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear in claim 12 line 14 regarding "at least one register" as this is claimed in line 13 also. It is unclear if this is claiming an additional register or referring to the previously claimed register.

Claim 13 recites the limitation "the basis" in line 2. There is insufficient antecedent basis for this limitation in the claim.

In claim 14 is unclear in line 2 what is meant by "each other".

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 12-14, 18, and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jelen et al. (US Patent 6,129,276) in view of Ruppert et al. (US Patent 5,640,002) and Examiner's Official Notice.

Jelen et al. discloses the claimed system/wireless device/program for collecting data on a wireless communication device into a customer register but is silent regarding the use of wireless means to obtain a product code and where the communication device has an identity code. Ruppert et al. discloses, in the abstract, that it is known in the art to provide a check out device with the capability to use radio frequency to identify products from radio frequency identification (RFID) tags. Examiner takes official notice that it is old and well known in the art of communication devices to use communication

device identification codes in order to identify one communication device from another communication device. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the system/wireless device/program of Jelen et al. with the radio frequency detection system as taught by Ruppert et al., and to use communication device identification codes as taught by Examiner's Official notice in order to identify products from radio frequency identification tags (RFID) and to identify one communication device from another communication device, respectively.

The following is provided for clarification:

A system for collecting data relating to a user of a communication device into at least one register of a customer register, comprising:

A product, the product comprising a product code and a product code transmitter for wirelessly transmitting the product code (Jelen discloses the scanning in of Uniform Product Codes from products and manufacturer's coupons, see abstract. Examiner has used Ruppert to teach the use of a device with radio frequency to detect RFID tags on items);

A database for maintaining the customer register of the product code (such as the databases on the host computer in Jelen, such as where the customer purchase list, user ID's product information, product pricing, etc... is saved, see column 9 line 51);

At least one communication device capable of receiving the product code (Jelen discloses a customer information terminal 10 capable of receiving product codes via a bar code reader 22);

Reception means for receiving the product code by means of the communication device (Jelen discloses a bar code reader 22 and Examiner has used Ruppert to teach having the capability to read RFID tags);

A server (Jelen discloses a host computer 58);

Wherein the communication device comprises transmission means for transmitting (Jelen discloses a transceiver in column 4 line 13 for communicating with the host computer) the product code received by means of the communication device (Jelen discloses the sending of bar code information to the host computer to obtain product description and price information in column 9 lines 29+), an identity code of the communication device (Examiner has taken official notice that device id codes are old and well known in order to identify one communication device from another), and user data pre-stored in the communication device (Jelen discloses the entering of customer ID numbers, swiping of ID cards and the entering of PIN numbers, see column 8 line 60 thru column 9 line 27) through a communication network (Jelen discloses the use of a wireless LAN 88) to at least one register of the customer register (Jelen discloses the server storing information from the communication device such as customer ID numbers (for verification column 10 lines 34+) and customer purchase lists to keep running totals, column 9 line 51 and column 11 line 5+), and wherein the server is arranged to store the identity code and the user data in at least one register of the database (Jelen discloses the server storing information from the communication device such as customer ID numbers (for verification column 10 lines 34+) and customer purchase lists to keep running totals, column 9 line 51 and column 11 line 5+);

Product code comparison means, which means are implemented to compare the product code to product codes which already exist in the database (Jelen discloses the comparing of product codes to determine product coupons in column 11 line 14);

Reward formation means, which means are implemented to form a reward in response to the comparison of the product code (Jelen discloses the use of product/manufacturer's coupons, see the abstract and column 11 line 14. Examiner is construing the redemption of a coupon when a particular product is purchased to be a reward);

Wherein the reward formation means is implemented to form a reward when the communication device user performs a purchase operation on the basis of the product code (In Jelen the customer is rewarded, for example, with a discounted price when the customer checks out using the coupons);

Further comprising linkage means for linking information of the customer register with each other (In Jelen the customer information is linked together, for example the customer ID is linked with the customer's purchase list and coupons selected when items and coupons are added to the customers running electronic receipt); and

(Regarding the use of Bluetooth, claim 25) Jelen et al., as modified above, discloses the claimed device but is silent regarding the use of Bluetooth for data communications. Examiner takes Official Notice that it is well known in the art of data communications to provide a wireless system with Bluetooth short-range wireless technology to provide low-cost and short range radio links between devices. It would have been obvious to one having ordinary skill in the art at the time the invention was

made to provide the system of Jelen et al. with the Bluetooth short-range communications of Examiner's Official Notice, in order to provide low-cost and short range radio links between devices.

### ***Response to Arguments***

6. Applicant's arguments filed 4/20/05 have been fully considered but they are not persuasive. Applicant has argued that Jelen et al. does not disclose any function or component for formulating a reward. The Examiner contends the Jelen et al. does disclose the function for formulating a reward when a coupon is found for an item and redeemed when the customer checks out. See abstract and column 11 line 14).

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elaine Gort whose telephone number is (571)272-6781. The examiner can normally be reached on Tuesdays and Fridays from 7:00 am to 7:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (571)272-6788. The fax phone number for the organization where this application or processing is assigned is (703)872-9326.



Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1113.

A handwritten signature in black ink, appearing to read 'Elaine Gort', with a stylized, flowing script.

Elaine Gort

Examiner - 3627

June 17, 2005